

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
The Pay Telephone Reclassification	)	CC Docket No. 96-128
and Compensation Provisions of	)	
The Telecommunications Act of 1996	)	
	)	
RBOC/GTE/SNET Payphone Coalition	)	NSD File No. L-99-34
Petition for Clarification	)	

To: The Common Carrier Bureau

**REPLY COMMENTS OF THE AD HOC RESELLERS COALITION**

The members of the Ad Hoc Resellers Coalition ("ARC"),<sup>1</sup> by counsel, hereby join to reply to comments submitted on various petitions for reconsideration and clarification of the Second Order on Reconsideration.<sup>2</sup> The record in this proceeding reflects substantial agreement with ARC's position that petitioners' proposed modifications to the Commission's payphone compensation rules are contrary to law.<sup>3</sup> As reflected in the record, and based upon law and sound public policy, the proposals of WorldCom, Inc. ("WorldCom"), AT&T Corp. ("AT&T") and Global Crossing Telecommunications, Inc. ("Global Crossing") to abandon, modify or substitute the established meaning of a "completed" call should be rejected.

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<sup>1</sup> ARC membership is provided on Attachment A.

<sup>2</sup> *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, NSD File No. L-99-34, Second Order on Reconsideration, FCC 91-109 (rel. April 5, 2001) ("Second Order on Reconsideration").

<sup>3</sup> See Comments of the Ad Hoc Resellers Coalition, filed herein on October 9, 2001 (the "ARC Comments").

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Petitioners posed various alternatives to the obligation imposed by the Second Order on Reconsideration to track and bill for completed calls. ARC objected to these proposals because they are contrary to law, and would result in the imposition of unwarranted compensation costs on resellers, costs which facilities-based carriers will avoid. The record in this proceeding reflects many voices presenting the same analysis and concern, and provides the Commission with sufficient and credible grounds upon which to deny petitioners' requests.

As the ARC Comments demonstrated,<sup>4</sup> unambiguous statutory and regulatory directives provide conclusively that only completed calls are compensable. This position is supported and amplified by the majority of commenters. For example, Telstar International, Inc. noted that the AT&T/WorldCom proposals not only violate Section 276 of the Act, but also violate the Act's prohibition against unreasonable discrimination.<sup>5</sup> Other parties directed the Commission's attention to the absence of any credible argument that the petitioners' proposals comport with established law and policy.<sup>6</sup>

Not only is there no legal basis for a modification or substitution of clear statutory language, implementation of any alternative theory would, as noted by ARC, result in a significant and unwarranted disadvantage to resellers, who would be required to reimburse the underlying facilities-based carriers for calls that are not completed, while these same carriers would avoid this

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<sup>4</sup> ARC Comments, pp. 4-5.

<sup>5</sup> See Comments of Telstar International, Inc. ("Telstar Comments"), pp. 3-13.

<sup>6</sup> See, e.g., Comments of the RBOC Payphone Coalition ("RBOC Comments"), pp. 6-7; Comments of Network Enhanced Telecom, L.L.P d/b/a Network IP ("NET Comments"), pp. 3-4; Comments of the International Prepaid Communications Association ("IPCA Comments"), pp. 5-6; and Comments of CenturyTel Long Distance, pp. 2-4.

expense by tracking calls completed wholly through their respective networks.<sup>7</sup> This legitimate concern is echoed by other commenters, who note the anti-competitive and predatory nature of this design,<sup>8</sup> and the inability of resellers to pass on to consumers the charges calls that are not completed.<sup>9</sup> The disruption to the marketplace that would be caused by the implementation any surrogate for a “completed” call ultimately will be borne by consumers.<sup>10</sup>

Commenters also joined ARC in urging the Commission to ensure the continued viability of direct contractual arrangements between resellers and payphone service providers (“PSPs”) for billing and collection of compensable calls.<sup>11</sup> As the record reflects, there is no justification to impede the development or continuation of private contractual relationships.

The record supports ARC’s position that full and fair compensation to PSPs does not require the sacrifice of the competitive marketplace. To maintain a level playing field among interexchange service providers, market competitors must not be subjected to different levels of compensation obligations, and must retain control over their own business decisions.

The record fully supports ARC’s opposition to the introduction of any surrogate

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<sup>7</sup> ARC Comments, pp. 5-7.

<sup>8</sup> Telstar Comments, p. 14.

<sup>9</sup> IPCA Comments, pp. 9-10.

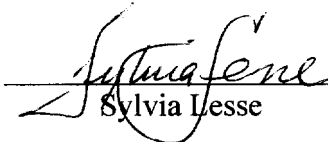
<sup>10</sup> Predictably, the American Public Communications Council supports the suggestions of AT&T and WorldCom, the implementation of which would result in the over-compensation of PSPs. *See* Comments of the American Public Communications Council (“APCC”), p. 2. Although AT&T, WorldCom and APCC all allude to the benefits of administrative efficiency which could result from the adoption of a surrogate for completed calls, no proponent can demonstrate that this substitution is lawful or in the public interest.

<sup>11</sup> *See, e.g.,* RBOC Comments, pp. 8-9; NET Comments, pp. 8-9; IPCA Comments, pp. 9-10; Initial Comments of IDT Corporation, pp. 44-47.

mechanism to displace tracking as a means of determining call completion. Accordingly, the petitions of AT&T, WorldCom and Global Crossing should be dismissed.

Respectfully submitted,

**THE AD HOC RESELLERS COALITION**

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October 22, 2001

## **REPLY COMMENTS OF THE AD HOC RESELLERS COALITION**

### **ATTACHMENT A**

#### **Members of the Ad Hoc Resellers Coalition**

South Carolina Net, Inc.  
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FTC Communications, Inc.  
Kingstree, SC

Chesnee Long Distance, Inc.  
Chesnee, SC

Community Long Distance  
DBA Comporium Long Distance  
Rock Hill, SC

West Carolina Rural Telephone Coop., Inc.  
Abbeville, SC

Piedmont Rural Telephone Coop.  
Laurens, SC

PBT Communications  
Gilbert, SC

Palmetto Rural Telephone Coop.  
Walterboro, SC

Hargray Long Distance  
Hilton Head, SC

HTC Communications, Inc.  
Conway, SC


Sandhill Telephone Coop., Inc.  
Jefferson, SC

Home Long Distance, Inc.  
Moncks Corner, SC

Chester Long Distance  
Chester, SC

## CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Reply Comments of the Ad Hoc Resellers Coalition" was served on this 22nd day of October 2001, by first class US mail postage prepaid or hand delivery, to the following parties:

  
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